

SENTENCE.

IN THE NAME OF THE QUEEN!

NETH 32

The Temporary Court-martial in MACASSAR in the case of the Prosecutor, *ratione officii*, against:

- I. HATADA, Minoru, 26, born in FUKUI KEN, former member of the YOSHISUMENTAI, HANAKIKAN and TOKETAI in MANOKWARI and SALLIJER; now in custody.
- II. KANAI, Kiyoshi, 23, born in GUMMA KEN, former member of the YOSHISUMENTAI, HANAKIKAN and TOKETAI in SURABAYA, MACASSAR, MADJENE and TJAMBA; now in custody.
- III. IKEDA, Suekichi, 23, born in NAGASAKI KEN, former member of the YOSHISUMENTAI, HANAKIKAN and TOKETAI in MALILI, WATAMPONE and MAROS; now in custody.

In view of the order dated 23rd January 1947, issued by the Prosecutor, committing the accused for trial by the Temporary Court-martial in MACASSAR, in which order the accused are charged:

"that they, as subjects of the enemy power Japan, from about September 1945 till about 28th February 1946 therefore in time of war, contrary to the terms of the armistice committed hostilities and/or incited thereto and/or provided the information, opportunity or means therefor in LIMPOE, BONE and WATAMPONE, at anyrate in South Celebes, they having during the aforesaid period carried on discussions with the extremist leader ANDI MOESA and his "pemoedas", provided them support, and on the night of 17th-18th February 1946 at about 2 a.m. having also placed a bomb against the back wall of the Assistant Resident of BONE's house in WATAMPONE and caused this bomb to explode; in which order also the accused are charged to appear at 8 a.m. on Friday, 7th February 1947, at the sitting of the Temporary Court-martial in MACASSAR, holding its session in the Palace of Justice in the Julianaweg, MACASSAR;

*With arms  
and explosives  
and promised  
them support*

In view of the writ of the above committal order dated 1st February 1947;

In view of the demand read out by the Prosecutor and then handed to the Court-martial, to the effect that the Temporary Court-martial in MACASSAR declare the accused:

- I. HATADA, Minoru
  - II. KANAI, Kiyoshi
  - III. IKEDA, Suekichi
- guilty of the war crime:  
"Commission of hostilities contrary to the terms of an armistice"  
and shall sentence each to the DEATH penalty.

Having heard the admissions of the accused;

In view of what has been dealt with at the sitting as set down in the record of the same;

In view of the documents in the case in so far as use was made of them and they shown to the accused;

In view of the defence put forward by counsel for the accused;

\* [ N.B. "pemoedas" are young Indonesian rebels intent upon lawlessness and destruction. They form the body of the disorderly bands in Indonesia ]



Considering that among others the following facts have appeared from the accused's admissions at the sitting: on 30th August 1945 the accused were in MAROS with OTA ROKURA, sergeant-major in the TOKUTAI (special branch of the Japanese naval police) in MAROS, where SHIRATO, legal officer of the MINSEIBU (Jap. civil administration) headquarters in MACASSAR, had an official notice issued saying that Japan had lost the war, that the Japanese were not to hide any arms, must remain in MAROS and wait for further orders and must not desert from there. The accused did not wait for these orders, they deserted from MAROS (OTA went first by order to MACASSAR and deserted there) and about 13th September the four of them joined forces again in SINDJAI. OTA brought with him: 2 automatic pistols, 6 or 7 pistols, 6 hand grenades, 1 rifle and 12 home-made bombs filled with explosives; the group had also a ton of food stuffs with them. According to the first accused's statement he handed in 1 automatic pistol, 3 hand-grenades and 6 bombs to the police in SINDJAI.

About 23rd October of the same year the accused and OTA were together in LIMPOE and then for some months lived in the house of ANDI MOESA, the "pemoeda" leader. ANDI MOESA had received reports of the independence of JAVA and wanted the same for CELEBES. He was organising a rebellion for this purpose, but told them that it was not yet properly arranged and asked them to help with it in every possible way. The four of them thereupon promised ANDI MOESA their full support and this they gave to the extent of their powers in the way stated by them at the sitting. ANDI MOESA asked if they could get hold of more weapons than those they had with them (each had a pistol, the second accused in addition a rifle and in common they had 2 hand-grenades and 4 bombs), to which they replied that it would be difficult to get hold of more arms (and according to the accused this did not occur). At the end of November OTA left their group and the first accused then gave ANDI MOESA a pistol which had belonged to OTA. On 16th February 1946 Netherlands troops attacked LIMPOE, ANDI MOESA and the accused managing to escape. The accused went to BONE and in revenge for the attack on LIMPOE put a bomb by the house of the Assistant Resident and exploded it, their intention being to blow up the house and its inhabitants, they knowing that as a general rule high ranking Netherlands and Australian officers stayed there; the result however was only material damage to the house.

Considering that the accused have stated that when they deserted from MAROS their original intention was solely to escape so that they need not be sent back to Japan where poverty reigned as a result of the defeat; that immediately after having done so they learnt of the independence movement in South Celebes and then decided to join it and fight on, and that these plans only took firm shape after they had come into contact with ANDI MOESA in LIMPOE;

Considering that the above admissions are confirmed by the written statements of NOYA, DJOEN AEDI and TAMBAHANI, the Japanese court-martial sentence dated 24th April 1946 (prod. A. blue) and the report dated 12th April 1946 drawn up by the Nica Officer, L.A. EMANUEL (prod. B. blue), all of which documents were read out to and shown the accused at the sitting, and which in virtue of the authority granted it by par. 22 of the "War Crimes Legal Procedure Decree" the Court-martial recognises as legal evidence, according them complementary evidentiary force;

Considering that TAMBAHANI's statement further contains, that in the beginning of September 1945 a "pemoeda" gathering was

-held-



was held in the Rajah's house in BONE at which OTA and the accused KANAI and IKEDA were present and themselves also spoke, this being however pertinently denied by both accused;

Considering that the accused have stated that they all went through the KOA SEN MON GAKKO (vocational school for the uplift ~~in~~ of Asia) in Japan and that in this country they were posted to the YOSHISUMINTAI, later called the HANAKIKAN or JOHOHAN (Intelligence Service), the personnel of which organisation was placed at the disposition of the TOKI TAI in 1944;

Considering that at the sitting a report on this Japanese organisation was given by the expert, Capt. J.N. HEYBROEK, which together with data known to the Court from studying secret reports on the subject, gives rise to the following observations, necessary for a clear view into and a correct judgment of the aims and objects of the accused:

Japanese ideology was striving for the HAKKO ICHIU, that is a "world family under Japanese leadership", for which in the Pacific the slogan: "Asia for the Asiatics", was employed. As Prince FUMINARO KONOE stated in the beginning of 1939, it was Japan's ideal task to free the peoples in the Far East from their chains. In reality the entire Japanese war has been one of aggression, aimed, not at the accomplishing of the aforesaid, so-called and self-imposed, "ideal task", but at the realisation of the ideology referred to, that of making all peoples, primarily those of the Far East, serviceable to Japan. The direction behind the scenes was centred in the "special service" of the Black Dragon, an ultra-reactionary patriotic society built up on gangster principles. Vocational schools were set up and turned out persons who were to help realise Japan's aims in and outside Japan. The accused came from such a school - the vocational school for the uplift of Asia - and were sent to these lands in order to put into effect the above-mentioned Japanese ideology.

Then came Japan's defeat and the surrender of TOKIO on 2nd September 1945, but Japan's aims have remained unaltered. The realisation of them has only been temporarily suspended and will be taken in hand again as soon as new possibilities for this present themselves. Preparations have already been made by Japan through the stimulation of the striving for independence by these lands since the capitulation. Japan sees in an independent Indonesia a still easier prey in the future for the realisation of its world-imperialism, which does not comprise Asia for the "Asiatics" but "the whole world for the Japanese".

Considering that in the opinion of the Court-martial it is in the above light that the accused's actions must be regarded: it was not their original intention only to escape in order not to be sent back to Japan where all was poverty as a result of the defeat and that then, having done so, when they learned of the independence movement in South Celebes, they decided to join in and in this way continue the fight for the sake of Japan; they have from the very beginning - in complete accordance with the purpose for which they were sent - done everything possible to serve Japan's cause as far as they could, also and precisely since the defeat, this appearing clearly from TAMBAHANI's statement which contains that the accused KANAI and IKEDA, also OTA, were speakers together with the "pemoeda" leader ANDI MOESA, at a meeting of about 300 "pemoedas" held in the house of the Rajah of BONE at the end of September 1945, which fact however the accused have obstinately denied;

Considering that the same is still further confirmed by the statements of the accused themselves that OTA brought with him 2 automatic pistols, 6 or 7 pistols, 6 hand-grenades, 1 rifle and 12 home-made bombs (explosive), and that the group disposed of a ton of food-stuffs (13th Sept. 1945).



Considering that by the above actions the accused have violated art. 35 of the Rules of Land Warfare 1907, seeing that they frustrated the surrender of TOKIO, dated 2nd. September 1945, whereby the defeated enemy power Japan - whose subjects the accused are-surrendered unconditionally to the Allied forces;

Considering with regard to the extent of the punishment, that up to the present day thousands have already fallen victims in the disorders in South Celebes since the Japanese capitulation, in which disorders the accused participated in the way explained above, and further that it was the intention of the accused to kill all those officers who as a rule were present in the house of the Assistant-Resident in BONE, thus furnishing the proof that they did not shrink from employing any methods, so that the death penalty demanded by the Public Prosecutor is entirely in keeping, with the gravity of the accused's wrong-doing;

In view of the decision taken at the first sitting of the Court-martial that the accused should be kept in custody during the trial;

Also in view of Statutes No.'s 44, 45, 46 and 47/1946;

Administering the Law.

IN THE NAME OF THE QUEEN!

Declares the accused indicated at the head of this:

- I. HATADA Minoru
- II. KANAI Koshi
- III. IKEDA Suekichiki, to the terms of the  
ber 1945"

each guilty of the war crime:

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"commission of hostilities contrary to the terms of the  
surrender of TOKIO dated 2nd September 1945"

Sentences each on this account to the DEATH penalty;

Understands that the costs of the suit shall be payable  
by the State.

Judgment passed 7th February 1947 by:

Lt. Col. Dr. N.M. Vellenga President  
Inf. Reserve-

Capt. R. CLAPROTH, )  
Inf. Reserve- ) Members  
Capt. ABDULLAH Gaeng MAPPOLDJI )  
Inf. Reserve- )

in the presence of:

1st Lt. Dr. J.H. HORNUNG Secretary,  
Inf. Reserve-

and summed up and decreed the same day.

The Members,  
sgd. CLAPROTH  
sgd. ABDULLAH

The President,  
sgd. VELLENGA.

The Secretary,  
sgd. HORNUNG.

Fiat of execution granted: MACASSAR, 7th March 1947.

The Resident of S. Celebes

sgd. LION CACHET

Pronounced at the public sitting of the Temporary Court-martial on 28th March 1947 by Lt. Col. Dr. N.M. VELLENGA, president, in the presence of Capt. J.A. STRUYENKAMP and Capt. ABDULLAH daeng MAPPOEDJI, members, 1st. Lt. Dr. J.H. HORNUNG secretary (all of the Infantry Reserve), Dr. S.D. EMANUELS, prosecutor, as well as in the presence of the accused and their counsel.

The Secretary,  
sgd. HORNUNG.

The President,  
sgd. VELLENGA.



IN THE NAME OF THE QUEEN

The Special Court in 'S-HERTOGENBOSCH, Second Panel,

Administering the law in the case of the Chief Prosecutor of that Court against:

ABRAHAM ROBERT ESAU,

born 7th June 1884 in FIEGENHAFEN, living at GEBWELERSTRAAT 4, <sup>Zehlendorf,</sup> BERLIN;  
in provisional custody in the HUIS VAN BEVARING (detention prison) 'S-HERTOGENBOSCH;

In view of the citation served on the accused and containing a statement of the act with which he has been charged and the circumstances connected with it;

In view of the investigation at the sitting of 13th April 1948;

Having heard the demand of the Chief Prosecutor to the effect that the accused be sentenced to FOUR YEARS imprisonment with deduction of the time already spent in detention;

Having heard the accused, who was assisted in his defence by Dr. J.M. BAREMIS, advocate 'S-GRAVENHAGHE (The Hague);

Considering that the accused is summoned to stand his trial on the charge:  
that he in 1944 in the Netherlands, at anyrate in Europe, when the Netherlands were at war with Germany, in the state or public service of or for the enemy as "Bevollmächtigter der Reichsstelle fuer Hochfrequenzforschung" (authorised agent of the State Department for High Frequency Research) in or of the "Reichsforschungsrat" (State Research Council), was guilty, violating the laws or customs of war, of intentionally inciting to, furthering and cooperating in, at anyrate as the superior intentionally allowing the plundering of property belonging to PHILIPS INDUSTRIES Ltd. in Eindhoven, this not being justified by military necessity, which property, namely materials and apparatus belonging to the aforesaid PHILIPS INDUSTRIES Ltd. and amounting to a total value of f 11563,50 at anyrate to some amount, namely and particularly by way of example, drilling machines, turning lathes, one or more oscillographs, one or more oscillators a short-wave transmitter, a precision wave measurer, divers bulbs, divers valves, one or more crystal detectors, and a stock of gold to the value of f. 400.- was stolen and carried away on the part of the Germans under the aforesaid circumstances by one or more Germans who were under the accused and acted by his orders;

Considering that the primary charge brought against the accused is one of intentionally inciting to, furthering and co-operating in the plundering further specified in the citation;

Considering that it has not been further specified in the citation in what actual way the inciting to, furthering and co-operating in the plundering took place and therefore as far as the primary charge is concerned the condition called for as laid down in article 261 of the Penal Code on pain of the citation being otherwise declared null and void is not fulfilled, namely that the citation must contain a description of the act charged, and the words used in the indictment to indicate this, namely inciting to, furthering and co-operating in, having in fact only a qualitative significance;

-Considering-

Considering that the writer of the citation obviously had the text of the last paragraph of article 6 of the Charter in mind when charging among ~~other~~ things "the furthering of and co-operating in";

Considering with regard to this that the applicability of the aforesaid paragraph has not been inserted in the amendments brought in the Extraordinary Penal Law Decree by the Law of 10th July 1947, Stat. book H 233;

Considering that the citation is therefore null and void as far as the primary charge is concerned;

Considering with regard to the alternative charge that legal and convincing evidence has not been produced of this and accused must therefore be acquitted of the same;

Considering in particular that it has not been proved that as DR. BOETTCHER's superior the accused did give the former orders - which then a fortiori implies that as the superior he intentionally allowed it - for the plundering specified in the citation;

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Considering indeed that from the accused's statement it appears that he only gave orders to take/to Germany that apparatus from the PHILIPS' factories which was of importance and necessary for the Hochfrequenz-Forschung;

Considering that not only according to the accused but also in the opinion of the expert witness Professor HOLST a considerable part of the apparatus and raw materials alluded to in the citation was or very shortly would have been of great importance for the German military operations, wherefore the taking away of the said articles must be considered as permissible in virtue of article 53 of the Rules of Land Warfare, even though perhaps in the present case there was no talk of a seizure in the purely formal sense such as that mentioned in the said article;

Considering that as far as the unlawful taking away of goods other than those dealt with above was concerned it has not been proved that the accused gave orders of any sort for this;

#### Administering the Law:

Declares the citation null and void as far as the primary charge brought against the accused is concerned;

Acquits the accused of that with which he has further been charged;

Orders his immediate release.

Judgment passed by:

DR. J.E. HÖRINK  
DR. J.H. JACOBS  
J.A.G. VAN ANDEL

President  
Judge  
Military Judge,

in the presence of:

DR K.J.M. WINTLOX, deputy clerk of the court, and pronounced at the public sitting of the aforesaid Court, 27th. April 1943.